

Special Civil Application No 8194 of 1994.

With

Civil Application No. 416 of 1996.

Date of decision: 05/02/96

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?No
5. Whether it is to be circulated to the Civil Judge?No

S'NAGAR DIST.PANCHAYT AYT vs JITENBHAI J.MEDH & ORS

Appearance: MR HS MUNSHAW for Petitioner MS NAYANA M SHAH for Respondent No. 1

Coram : MR.JUSTICE M.R.CALLA

Dt.5.2.1996.

#### ORAL JUDGEMENT

This Special Civil Application comes up on Civil Application No. 416 of 1996 filed in this Special Civil Application on behalf of the applicants i.e. original respondents-workmen. It is submitted by both the sides that the matter is fully covered by the earlier decision rendered on 19.1.1995 in Special Civil Applications No.12775 of 1994 and 12780 of 1994 which is the common order.

The respondents workmen were in the services of the Surendranagar District Panchayat and their services were terminated in the year 1983. Against this termination, the industrial dispute was raised and the concerned Labour Court granted relief of reinstatement with 100% backwages. Against this award several Special Civil Applications were preferred. In those matters common order was passed on 29.12.1987 reducing the relief of 100% backwages to 50% of the backwages while maintaining the relief of reinstatement with continuity of

service. While implementing the aforesaid order the District Panchayat deducted certain amount even out of the 50% of the backwages and did not grant relief of continuity also. The workmen preferred Recovery Application and the Labour Court, Surendranagar has passed the order on 1.1.1994 in the Recovery Application allowing the payment of Rs.21,928/- and sum of Rs.8515/- to the respondents-workmen No.1 and 2 respectively. Against this order dated 1.1.1994 passed in the Recovery Application by the Labour Court, the present Special Civil Application has been preferred.

It is submitted by Mr.Munshaw that the amount granted by the Labour Court is 100% backwages instead of 50% backwages as was directed by the Division Bench of this court on 29.12.1987. Operative portion of the order reads as under :

"..... The respondent in each petition will be reinstated in service with 50 percent back wages and continuity in service as if there is no break, to the original post. Each respondent will be placed in the same scale in which he was at the date of the termination in question and will thereafter be brought to the new scale if any. The back wages to be paid within these months from the receipt of the writ of this court. The order as to payment of Rs.100/- by way of costs towards expenses in each petition will stand.

The rule is made absolute accordingly with no order as to costs."

In view of the earlier Division Bench decision dated 29.12.1987 and the order passed on 19.1.1995 in Special Civil Application Nos. 12775 to 12780 of 1994, this Special Civil Application is partly allowed. The order of the Labour Court passed in Recovery Application granting 100% backwages is set aside and the respondents workmen are held to be entitled to the relief of reinstatement with continuity of service and 50% of the backwages. The present petitioner- District Panchayat has not placed the respondents workmen in regular running payscale but has placed them at the minimum of the payscale, and that is not in conformity with the order passed by this court. The petitioner-District Panchayat shall implement the order and place them in the running payscale within the period of six months from the date of receipt of the order and after reinstating the workmen in the payscale in which they were at the time of their termination. Directives to place them in the payscale clearly mean to put them in the running time scale and not to fix them at the lowest of the payscale. As regards any other dispute concerning fixation in the new payscale etc. the workmen shall be at liberty to raise the same before the appropriate forum in accordance with law. Rule is made absolute accordingly. The petitioner shall pay cost Rs.250/- to each of the two workmen.

In view of the above order passed in the main Special  
Civil Application no order in Civil Application No. 416 of 1996.

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